



CHELAN COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received:	
Date Stamp	
Reviewed by: _____	
Date Reviewed: _____	

Applicant: Premium Developments, L.L.C.


Application Number: CHEL 06-03

This record of decision was made by a majority of the board at an open public meeting of the Chelan County Water Conservancy Board held August 10 2006.

X Approval: The (board name) Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on August 10 2006 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The (board name) Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on August 10, 2006 and submits this record of decision to the Department of Ecology for final review.

Signed:



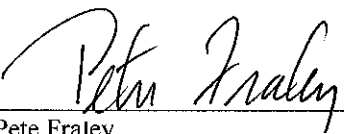
Don Phelps, Chair
Chelan County Water Conservancy Board

Date: 8-10-06

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Joel Teeley
Chelan County Water Conservancy Board

Date: _____
Absent
Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☒



Pete Fraley
Chelan County Water Conservancy Board

Date: _____
8-10-06
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

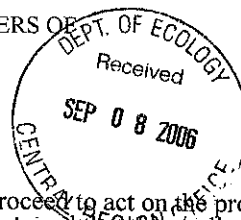
Mailed to the Department of Ecology Central Regional Office of Ecology, via certified mail, and other interested parties on _____

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

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Chelan County
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON



Report of Examination

NOTE TO APPLICANT: Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

<input checked="" type="checkbox"/> Surface Water		<input checked="" type="checkbox"/> Ground Water	
DATE APPLICATION RECEIVED 1/12/2006	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc.) 6963	WATER RIGHT PRIORITY DATE 5/1905	BOARD-ASSIGNED CHANGE APPLICATION NUMBER CHEL 06-03
NAME Premium Developments, L.L.C.			
ADDRESS (STREET) c/o Mark Peterson; 103 Palouse Street, Ste. 5		(CITY) Wenatchee	(STATE) WA
		(ZIP CODE) 98801	
Changes Proposed: <input checked="" type="checkbox"/> Change purpose <input type="checkbox"/> Add purpose <input type="checkbox"/> Add irrigated acres Change point of diversion/withdrawal			
<input checked="" type="checkbox"/> Add point of diversion/withdrawal <input checked="" type="checkbox"/> Change place of use <input type="checkbox"/> Other (Temporary, Trust, Interties, etc.)			

SEPA
The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 600	MAXIMUM ACRE-FT/YR 215.06	TYPE OF USE, PERIOD OF USE Irrigation of 40 acres from April 1 to October 31				
SOURCE Columbia River			TRIBUTARY OF (IF SURFACE WATER) Pacific Ocean				
AT A POINT LOCATED: PARCEL NO. 262116110050	¼ SW	¼ ne	SECTION 16	TOWNSHIP N. 26	RANGE 21	WRIA 46	COUNTY. Chelan
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED NE1/4;SE1/4NW1/4;N1/2N1/2SW1/2 in Sec. 16 and NW1/4NW1/4 Sec. 15; all in T26N, R21 E.W.M. in Chelan County, WA.							
PARCEL NO. 262116110050	¼	¼	SECTION 16	TOWNSHIP N. 26N	RANGE, 21E.W.M.		

Proposed Use

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 600	MAXIMUM ACRE-FT/YR 564	TYPE OF USE, PERIOD OF USE Continuous Municipal				
SOURCE Well			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO. 262116110050 262116340100	¼	¼ Govt. Lot 5	SECTION 16	TOWNSHIP N. 26	RANGE 21	WRIA 46	COUNTY. Chelan
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED Approved Water Plan service area							
PARCEL NO.	¼	¼	SECTION 16	TOWNSHIP N. 26	RANGE, 21		

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 600	MAXIMUM ACRE-FT/YR 215.06	TYPE OF USE, PERIOD OF USE Continuous municipal				
SOURCE Well and existing points			TRIBUTARY OF (IF SURFACE WATER) Columbia River				
AT A POINT LOCATED: PARCEL NO. 262116110050 262116340100	¼	¼ Govt. Lot 5	SECTION 16	TOWNSHIP N. 26	RANGE 21	WRIA 46	COUNTY. Chelan
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD Approved Water Plan service area							
PARCEL NO. 262116110050 262116340100	¼	¼	SECTION 16	TOWNSHIP N. 26N	RANGE, 21E.W.M.		

DESCRIPTION OF PROPOSED WORKS

Applicant proposes to develop a well in addition to the existing surface water diversions to provide water to a residential subdivision intending to commence construction this summer. The infrastructure is anticipated to be substantially complete by 12/1/2008 and service connections will be completed as the lots are developed.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE:

9/1/2006

COMPLETE PROJECT BY THIS DATE:

12/1/2008

COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:

12/1/2020

REPORT

BACKGROUND [See WAC 173-153-130(6)(a)]

The applicant filed for changes to the subject water right as referenced above. Said application was accepted by the board on that filing date and given the above application number. This application is one of three applications for Water Rights 6963, 6962 and 23434C all appurtenant to the same parcels that the applicant is developing. See attached Notice of Application for Changes to a Water Right together with it's affidavit of publication. In addition to publication this notice was sent to the Department of Fish and Wildlife. (see attached)

The board tentatively determined the extent and validity of the right as referenced above following the investigation into the historical water use as discussed below. The subject Harris orchard company orchards are situated in the arable portions of Section 16 west of the river. The orchard was developed in three phases with the first diversion and planting occurring in 1905, 40 acres pursuant to water right 6963 and then 15 acres pursuant to water right 6962 the following year 1906. In the 1970s the Harris family sought to develop a well for domestic and irrigation needs pursuant to water right 23434. Since this well did not produce sufficient quantities for irrigation that aspect of the permit was not certificated and instead authorized the community domestic use that probably existed before but was not referenced in the claims. However, the Record of Examination for the permit corroborates the water use calculations as set forth below. Instead, the Harris family sought a change to Claim 6962 to allow the point of diversion to be changed to a well adjacent to that surface water diversion. The applicant provided a copy of said application to change evidencing that the Department of Ecology received that application 12/12/1977, but the Department of Ecology could produce no records of what happened to that application. Harris was successful in developing this well and it has become the point of diversion for quantities under this claim and is the newly proposed point of diversion for this and the related applications for change referenced above.

The third phase of development was pursuant to water right 20153 which is not being changed.

The Harris family is now selling some of their orchard to the applicant. Harris is retaining orchard developed pursuant to water right 20153 West of the Highway. All other orchard irrigation is attributed to the subject water rights.

This transfer is exempt from the provisions of the State Environmental Policy Act pursuant to WAC 197-11-800 (4) (less than 2250 gpm for ground water diversion.) This transfer is part of a development that is subject to SEPA requirements. Mitigated Determinations of Non-Significance have been issued for this development by Chelan County under Planning File Numbers 2006-002 and 2006-003. The board determines that this application contemplates the same development plan that has already been reviewed and processed by Chelan County. There has been no change to the project's impacts. The board hereby concurs with and adopts the determinations of Chelan County (see determination documents attached).

COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

There were no protests received during the 30 day protest period. In addition, no oral or written comments were received at an open public meeting of the board or other means as designated by the board. The board met and held hearings on this application on 1/12/06 and on every second Thursday of the months thereafter at the same time and place until this decision was made.

INVESTIGATION [See WAC 173-153-130(6)(c)]

The following information was obtained from reports, recent aerial photos, department records, maps and speaking with the applicant and/or other interested parties. Don Phelps, board member, conducted a site visit on 4/6/06.

There are two residential lots along the water front that are within the legal descriptions of Water Rights 6963, 6962, and 23434 but are not owned by the applicant and appear to rely upon exempt wells only. There are orchard blocks across the highway (97A) from parcel 262116340100, approximately 10 acres in size, the irrigation of which is attributed to Ground Water Certificate G3-20153C which is also owned by Jim Harris.

Public interest is served by this application as it facilitates land use in a manner prescribed by the relevant Comprehensive Planning Documents. This right is being transferred for municipal use subject to a potential interruption. However the quantities authorized for change under Certificate 23434 are not interruptible and will be sufficient to meet Washington State Department of Heath Standards of reliability for the proposed development. Considered together these rights will meet the public's interest in assuring adequate resources for the development of a public water supply system.

The configuration and use of the water systems did not lend itself to a calculation of quantities pumped. For this reason the extent and validity of the water rights was based on commonly accepted standards as detailed below. The water rights prescribe much higher annual quantities than is usually associated with an orchard with cover crop. It is clear that the property has had orchard with cover crops on it in the acres specified in the rights for as long as has been alleged in the respective Water Right documents. The Washington Irrigators Guide for

Wenatchee was used as it appeared to most closely approximate the climate of the subject property. The application efficiency was estimated at 60%, with evaporation at 10% for a total consumed amount of 70% leaving 30% for return flows. Using this approach the 35.14 inches the WIG indicates as the crop requirement supports a total irrigation requirement of 58.57 inches. This amount was augmented to include 4 inches for frost protection activities to calculate a total beneficial use of 62.57 inches or 5.21 feet over the 40 irrigated acres attributed to Water Right 6963 (208.56 acre feet) and the 15 irrigated acres attributed to Water Right 6962 (78.21 acre feet). This water duty correlates well with the amounts determined by the Department of Ecology for the issuance of Ground Water Certificate G3-20153C referenced above. Water Right 6963 utilizes a system with a bypass to accommodate differences in the demands created by orchard blocks of different sizes. The pump runs continuously throughout the irrigation season and the bypass averages a flow of about 7 gallons per minute which would account for approximately 6.5 acre feet per year. The property has domestic residences and shop facilities that are consistent with the quantities asserted on the face of Water Right 23434 (20 gpm/4 acre feet). The instantaneous demand rates asserted on the respective water rights also appear to be supported by the capacities of the respective diversion apparatus. For these reasons the tentative determination of the subject rights is as set forth above. At no time does it appear that the applicant or his predecessors abandoned the subject right.

The proposed well has been in use for some time. Review of the well log and those of the surrounding wells on the Department of Ecology’s web site indicate that the well is hydrologically connected to the Columbia River and its use has not created any impact on adjacent wells.

CONCLUSIONS [See WAC 173-153-130(6)(d)]

The water proposed for change has been continuously exercised in the amounts and manner and from the priority date as stated on the relevant water right documents or September 1, 1967 (which ever is later). As the water rights authorized for change are in a valid exercisable status with regard to the amounts proposed for change, the statutory forfeiture provisions of Chapter 90.14 RCW are not met relative to the amounts requested for change. There is no period of five years in which the amounts authorized for change have not been put to beneficial use. At no time was there intent by the water right holder(s) to abandon rights to these amounts. The new point of withdrawal is from the same body of public water as the original point of withdrawal/diversion. There were no protests or comments by third parties. The proposed changes do include diversion of water outside of the irrigation season, but if these amounts are conditioned as set forth below they and all other proposed diversions can be made without injury or detriment to existing water rights. The public interest is served by this transfer of ground water as it facilitates land use in a manner consistent with the relevant planning policies. The proposed transfer is exempt for purposes of the SEPA pursuant to WAC 197-11-800 (4). The proposed change of water right will not significantly affect, in any negative aspect, the quality of the environment. Approval of this change will not enlarge the right. The water right relates in all respects to the proposed change including place of use and point of withdrawal to lands (and waters use thereon) located within Chelan County. The procedures followed in processing the subject application are in compliance with applicable state laws, including RCW 90.03.380-.390 and RCW 90.80.070.

DECISION [See WAC 173-153-130(6)(e)]

The board hereby approves the application to the extent set forth above subject to the conditions set forth below.

PROVISIONS [See WAC 173-153-130(6)(f)]

The following provisions are to be included as a part of the application approval decision: The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required. This authorization shall in no way excuse the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations including those administered by other programs of the Department of Ecology. The applicant shall have a development schedule for completion of the facilities related to the changes approved by this Final Order as set forth above. Provided that, for good cause shown, the dates for development set forth above may be extended by the Department of Ecology (hereinafter Ecology) upon request of the applicant. Upon satisfaction of the development schedule, and notification thereof to the Department of Ecology, a superseding certificate shall be issued to the applicant by the Department of Ecology with the following attributes:

Name on Certificate, Claim, Permit:	Premium Developments, L.L.C.
Priority Date, First Use:	May, 1905
Instantaneous Quantity:	600 gallons per minute
Annual Quantity:	215.06 acre feet per year
Source:	Well and two Columbia River Diversions
Point of Diversion:	SW ¼ of the NE ¼ of Section 16 for the two surface water diversions Govt. Lot 5 Section 16 for the well all in T26N, R21E.W.M.,Chelan County, Washington parcel #s262116110050 and 262116340100
Purpose of Use:	Municipal
Period of Use:	Continuous
Place of Use:	The place of use (POU) of this water right is the service area described in the most recent Water System Plan/Small Water System Management Program approved by the Washington State Department of Health, so long as the water right holder

is and remains in compliance with the criteria in RCW 90.03.386(2). RCW 90.03.386 may have the effect of revising the place of use of this water right.

If the criteria in RCW 90.03.386(2) is met and a Water System Plan/Small Water System Management Program was approved after September 9, 2003, the place of use of this water right shall be the service area described in the latest approved Water System Plan/Small Water System Management Program. If the criteria in RCW 90.03.386(2) are not met and no Water System Plan/Small Water System Management Program has been approved after September 9, 2003, the place of use shall be the last place of use described by Ecology in a water right authorization."

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

Water use data shall be recorded daily. The maximum monthly rate of diversion/withdrawal and the monthly total volume shall be submitted to Ecology by January 31st of each calendar year. Ecology is requiring submittal of daily meter readings to collect seasonal information for water resource planning, management and compliance.

The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, WRIA, Permit/Certificate/Claim No., source name, annual quantity used including units of measurement, maximum rate of diversion including units of measurement and period of use. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Ecology prefers web based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

This authorization is subject to Washington Department of Fish and Wildlife juvenile salmon and gamefish screening criteria (pursuant to RCW 77.55.040). The superseding permit and certificate issued to Premium Developments, L.L.C. shall be subject to instream flows for the Columbia River during the period October 31 to March 31 as established in Chapter 173-563 of the Washington Administrative Code, specifically: Consumptive quantities under this authorization are subject to the following minimum flow provisions as specified in WAC 173-563-040 and WAC 173-563-050 and the following table. It is subject to regulation by the Department of Ecology for protection of instream resources whenever the March 1 forecast of April-September runoff at The Dalles is 60 MAF or less, and when gauged flows are predicted by the BPA 30-Day Power Operation Plan to violate the following minimum flow provisions at:

Primary Control Station(s): Rocky Reach
River Mile(s): 473.7

Minimum Average Weekly Flows
Columbia River Projects
(1,000 cubic feet/second)

PRIMARY CONTROL STATION:	Chief Joseph*	Wells/ Rocky Reach*	Rock Island & Wanapum *	Priest Rapids	McNary	John Day	The Dalles
RIVER MILE:	(545.1)	(515.6) (473.7)	(453.4) (415.8)	(397.1)	(292.0)	(215.6)	(191.5)
Jan	30	30	30	70	60	60	60
Feb	30	30	30	70	60	60	60
Mar	30	30	30	70	60	60	60
Apr 1-15	50	50	60	70	100	100	120
Apr 16-25	60	60	60	70	150	150	160
Apr 26-30	90	100	110	110	200	200	200
May	100	115	130	130	220	220	220
Jun 1-15	80	110	110	110	200	200	200
Jun 16-30	60	80	80	80	120	120	120
Jul 1-15	60	80	80	80	120	120	120
Jul 16-31	90	100	110	110	140	140	140
Aug	85	90	95	95	120	120	120
Sep	40	40	40	40	60	85	90
Oct 1-15	30	35	40	40	60	85	90
Oct 16-31	30	35	40	70	60	85	90
Nov	30	30	30	70	60	60	60
Dec	30	30	30	70	60	60	60

* For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as

necessary to maintain minimum flows (subject to low runoff and adjustment) at Priest Rapids, whichever is higher. As provided in WAC 173-563-050(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to 25 percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs.

Consumptive use of water under this authorization can be expected to be curtailed at least once in every 20 years.


Water available under this authorization will not provide a firm consumptive supply from October 31 to March 31, absent use of an alternative authority that is not subject to instream flows during this time.

This authorization to make use of public waters of the State may be subject to public health laws rules and regulations as promulgated by the State Department of Health. The applicant shall be required to obtain approval of a Comprehensive Water Plan from the Department of Health for the municipal portion of this change application, which shall address the means to address the possible interruption of use due to instream flows, including, but not limited to, those set forth above under the Public Interest section. The municipal portion of this change application shall be subject to a performance standard during periods of possible interruption that will require the municipal system operator to curtail withdrawals equal to the amount of water consumed during the period of interruption and supplement the reduction from an alternative source or authority, as set forth in the Public Interest section and to be more fully set forth in the Comprehensive Water Plan.

This Order may be appealed pursuant to RCW Chapter 43.21B. Any person wishing to appeal this Order must file an appeal with the Pollution Control Hearings Board within thirty (30) days of receipt of this Order. Send the appeal to: Pollution Control Hearings Board, PO Box 40903, Olympia, Washington 98504-0903. At the same time, a copy of the appeal must be sent to: Department of Ecology, Water Resources Appeals Coordinator, PO Box 47600, Olympia, Washington 98504-7600.

Signed at Wenatchee, Washington.

August 10, 2006



Don Phelps, Chair
Chelan County Water Conservancy Board

For attachments not included or for more information please contact:

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